

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY

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|-----------------------------------|---|----------------------|
| In re: |) | Chapter 11 |
| |) | |
| BED, BATH & BEYOND, INC. et. al., |) | Case No. 23-13359 |
| |) | |
| Debtors. |) | Jointly Administered |
| |) | Re: Docket No. 714 |

**OBJECTION OF CHERRY HILL RETAIL PARTNERS LLC NOTICE TO CONTRACT
PARTIES TO POTENTIALLY ASSUMED EXECUTORY CONTRACTS AND
UNEXPIRED LEASES [Bankr. Docket No. 714]**

NOW COMES, CHERRY HILL RETAIL PARTNERS LLC (“Landlord”), by and through its undersigned attorneys, and hereby objects to the potential assumption of certain unexpired leases with Landlord identified on the **NOTICE TO CONTRACT PARTIES TO POTENTIALLY ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES** [Bankr. Docket No. 714] (the “Assigned Contract Notice”) and in support thereof as follows:

1. Landlord is the lessor of certain non-residential real property to one or more of the Debtors pursuant to, among others, that certain Lease Agreement dated August 22, 2005 for the demised premises located at and forming a portion of The Market Place at Garden State Park, 2130 Marlton Pike W, Cherry Hill NJ with respect to Store 458 (the “Lease”). Pursuant to the Assigned Contract Notice, the Debtors seek to assume/assign the Lease with Landlord which were not previously rejected during the Debtors’ bankruptcy cases.

2. The Assigned Contract Notice asserts the cure amount due Landlord of \$0.00.

3. Landlord files this Objection to the assumption/assignment of the Lease for the following reasons:

(a) Landlord objects to the assumption/assignment of the Lease insofar as the Debtors seek to assume/assign the Lease without complying with the notice requirements of the Bankruptcy Code;

(b) Landlord objects to the assumption/assignment of the Lease insofar as the Debtors fail to accurately identify the Lease to be assumed/assigned as well as a calculation of the proposed cure amount for such Lease;

(c) Landlord objects to the assumption/assignment of the Lease insofar as the Debtors seek to assume/assign the Lease without paying all the cure amounts for the Lease in order to affect an assumption of the Lease under § 365 of the Bankruptcy Code¹; and

(d) Landlord objects to the assumption/assignment of the Lease insofar as the Debtors seek to assume/assign the Lease without providing Landlord with sufficient adequate assurance of future performance as required under § 365 of the Bankruptcy Code including, but not limited to, financial information concerning the Reorganized Debtor and/or proposed assignee and permitting Landlord to perform any necessary on-site inspections.

4. The Debtors must comply with their post-petition obligations under § 365(d)(3) of the Bankruptcy Code up to the date of assumption/assignment and pay all amounts necessary to cure the defaults on the Lease to effect any assumption/assignment of the Lease.

5. Landlord respectfully reserves all rights and remedies available to it under the Lease, applicable law and the Bankruptcy Code, including, but not limited to, (i) the right to

¹ The proposed cure to assume/assign the Lease on the Assigned Contract Notice does not appear to include the unpaid Fixed Rent and Additional Rent due for certain prepetition periods. (See Lease Article 4) Further, the proposed cure does not fully address Additional Charges due under the Lease (including, but limited to, additional attorneys' fees due and payable). (See Lease § 23.7.) Landlord notes the cure necessary to assume the Lease is no less than \$7,049.58 (see attached Exhibit A) and continues to accrue.

compel payment of post-petition rent under § 365(d)(3) of the Bankruptcy Code; (ii) the right to contest the Debtors' right to assume/assign the Lease under §365 of the Bankruptcy Code and/or (iii) the right to contest the amount of any cure amount asserted concerning the Lease.

6. Landlord reserves the right to raise additional issues at the hearing on the assumption/assignment to be scheduled before the Bankruptcy Court.

Respectfully submitted,

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